

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Southern Sky Air & Tours, LLC)	
d/b/a Direct Air & Tours,)	
)	C.A. No. 4:10-cv-01560-JMC
Plaintiff,)	
)	
v.)	ORDER
)	
Falcon Air Express, Inc.,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant Falcon Air Express, Inc.’s (“Falcon”) Motion to Compel [Doc. 35] and Motion for Sanctions for Discovery Violations by Dismissing Plaintiff’s Complaint [Doc. 42] pursuant to Rules 37(a) and 41(b) of the Federal Rules of Civil Procedure. On February 4, 2011, Falcon served Plaintiff Southern Sky Air & Tours, LLC (“Southern”) with its Second Set of Interrogatories and Requests for Production. Subsequently, on or about February 14, 2011, Falcon served Southern with its Third Set of Requests for Production (collectively, “the February 2011 Requests”). Southern failed to make any response and Falcon filed a Motion to Compel. Southern made no response to Falcon’s motion. On June 9, 2011, this court granted Falcon’s motion and gave Southern ten (10) days to respond fully to the February 2011 Requests. *See* [Doc. 34]. Southern allegedly made a partial response to Falcon’s discovery requests on or about July 22, 2011, and August 4, 2011. Falcon also served Southern with its Fourth Requests for Production in May 2011. However, Southern made no response to these additional requests. As a result of Southern’s failure to respond, Falcon has repeatedly postponed depositions and this court has repeatedly amended the scheduling orders in this case. *See* [Docs. 36-41]. On October 18,

2011, Falcon filed its Motion for Sanctions for Discovery Violations by Dismissing Plaintiff's Complaint [Doc. 42]. Southern made no response to the motion.

As Southern has failed to participate in discovery or otherwise prosecute this case, it appears to the court that it wishes to abandon this action. Under the Federal Rules of Civil Procedure 37(b)(2)(A) and 41(b), this court may dismiss an action for a party's failure to comply with the rules or with an order of the court. Prior to dismissing this action, the court will allow Southern an opportunity to comply with the court's orders and respond to Falcon's discovery requests fully. Southern shall have through November 11, 2011, to provide responses to Falcon's discovery requests and to contact Falcon's counsel to facilitate the conclusion of discovery in this matter. Southern is advised that if it fails to comply with this order of the court, this action will be subject to dismissal in accordance with the Federal Rules of Civil Procedure.

Based on the foregoing, and upon consideration of the record herein, Defendant's Motion to Compel [Doc. 35] is **GRANTED** and Defendant's Motion for Sanctions for Discovery Violations by Dismissing Plaintiff's Complaint [Doc. 42] is **GRANTED IN PART AND DENIED IN PART**.

IT IS SO ORDERED.



United States District Judge

October 28, 2011
Greenville, South Carolina